



RIARA LAW SCHOOL

UNIVERSITY OF EXAMINATION FOR BACHELOR OF LAWS (LLB) DEGREE

17TH APRIL 2022

RLLB 104: LEGAL RESEARCH AND WRITING 1

INSTRUCTOR: Samuel Kyalo, MCIArb.

INSTRUCTIONS

1. This is the final examination in Legal Research and Writing I. You will earn 70% of your final grade from this final examination and 30% from Continuous Assessment Assignments.
2. This examination has **THREE** questions. Please answer **ALL THE THREE QUESTIONS.**
3. The examination has 3 pages, including this one.
4. Time allocated for this examination is **FOUR (4) HOURS.** Please ensure that you manage your time carefully and allocate sufficient time to each question. No additional time will be allowed.
5. Please sign the roll sheet when you turn in your answer sheet. If you fail to sign the roll sheet, we shall have no way of establishing that you sat for this examination and your marks will not be reported.
6. This is an **OPEN BOOK** examination. You are free to utilize the resources in the library as well as the computer laboratory for this exam.
7. Please type and format your answers as follows: Times New Roman, font size 12, 1.5 spacing, justified. Additionally, footnotes should be in font size 10. All citations must conform to the **OSCOLA** Referencing format.
8. This examination is governed by **Riara University Academic Honesty Regulations.** Students who violate those regulations will be penalized. Students have an obligation to report to the invigilator any incidences of academic dishonesty compromising the integrity of this examination. Each exam is to be your own original work; collaboration with others is not permitted. You are strictly prohibited from discussing the content of this exam with anyone until everyone has completed the exam.

QUESTION ONE (30 MARKS)

- (a) Using the Electronic Kenya Law Reports (eKLR) platform, locate and download the case of *Patrick Musimba v National Land Commission & 4 others*, Petition No. 613 of 2014 [2016] eKLR.
- (b) Prepare case brief of the case you downloaded in (a) above. Your case brief should include all the essential elements discussed in class. Additionally, ensure that your writing adheres to the hallmarks of effective legal writing.

QUESTION TWO (10 MARKS)

“The weight of a [source of law] depends on its status as primary or secondary authority....”
(Amy E Sloan, *Basic Legal Research: Tools and Strategies* (4th edn, Wolters Kluwer 2009) 5)

Considering the above statement, and using illustrative examples, distinguish between primary and secondary sources of law.

QUESTION THREE (30 MARKS)

After weeks of sustained nationwide protests led by the opposition party, the *Umoja Party*, the President of Kenya signed an executive order making it illegal to “picket or demonstrate on any public road”. The executive order empowers the police to detain anyone involved in an unauthorized protest for up to 90 days without trial or bail.

Under the authority of the Executive Order, the police have arrested and detained 104 members of the *Umoja party* in an undisclosed location without any plan to arraign them to court. The government, through its spokesperson and the President, defends the Executive Order and the arrests as necessary measures to maintain public order and national security.

The Government's actions have raised concerns among civil society organizations and human rights groups, who argue that the Government's actions violate constitutional rights and principles. The *Umoja party* has also criticized the Government's action as an attempt to stifle dissent and suppress legitimate grievances. Its leaders vow to challenge the executive order in the High Court of Kenya.

You recently secured an internship at Smart & Sharp LLP, Advocates, the law firm retained by the *Umoja Party* to represent it in the matter.

Your supervisor, Jane Makali, has asked you to prepare a legal opinion advising her on whether your client (*Umoja*) is likely to succeed in the intended legal challenge against the Executive Order and the arrests.

Required:

Prepare a legal memorandum addressing the issues arising from this situation. Your memorandum must demonstrate adequate legal research and analysis of the relevant sources of law.